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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,394	09/09/2004	Prabir Sen		3393
38150	7590	11/28/2008	EXAMINER	
PRABIR SETN 18 WASHINGTON STREET GLENVIEW, IL 60025		TORIMIRO, ADETOKUNBO OLUSEGUN		
		ART UNIT		PAPER NUMBER
		3714		
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		11/28/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/709,394	SEN, PRABIR	
	<b>Examiner</b>	<b>Art Unit</b>	
	ADETOKUNBO O. TORIMIRO	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 5 and 14-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 5 and 14-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. The amendment received on 09/05/2008 has been entered. It is noted that claims 5 and 14-16 have been amended.

### ***Specification***

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. Applicant is reminded of the proper content of an Abstract of the Disclosure.

In chemical patent abstracts for compounds or compositions, the general nature of the compound or composition should be given as well as its use, e.g., "The compounds are of the class of alkyl benzene sulfonyl ureas, useful as oral anti-diabetics." Exemplification of a species could be illustrative of members of the class. For processes, the type reaction, reagents and process conditions should be stated, generally illustrated by a single example unless variations are necessary.

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because:
  - i) it contains 307 words which is more than the required 150 words, and
  - ii) it contains two paragraphs which is more than the allowed one paragraph.

Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

7. Claim 14 is objected to because of the following informalities:

Claim 14, lines 1 and 2: "a user interactive apparatus" and "a three-dimension photo" should be -- the user interactive apparatus -- and -- the three-dimension photo -- respectively.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5 and 14-16 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. In order for a method to be statutory and useful, it must have a practical application of another wise abstract idea. A practical application may be achieved through either:  
a) a physical transformation or b) an otherwise useful, concrete and tangible result. To show a physical transformation, the method must physically transform an article or physical object to a

different state or thing. Further, the claims fail to show a tangible result. In order for a claim to be tangible it must show a real-world or perceivable result. In the instant case, the display's claims signal, which is by itself not useful because nothing is stated as to how the three-dimension is achieved; further the invention claims a concept which by itself is an abstract idea that does not produce a concrete and tangible result.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

10. Claims 5,14, 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 5: "a display device", renders the claim indefinite because it is unclear as to if the display device refers to the same display in line 1. See MPEP § 2173.05(d).

Re claims 5,14, and 15: Claim 5 recites the limitation "the gallery"; claim 5 recites the limitation "the theme"; claim 14 recites the limitation "the participant"; and claim 15 recites the limitation "the administrator". There are insufficient antecedent basis for these limitations in the claims. It is also very unclear exactly what the applicant is claiming in all the claims as the invention.

Appropriate clarification is required.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless;-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 5 and 14-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ritchey (US 5,495,576).

Re claim 5: Ritchey discloses a three-dimension photo-realistic virtual reality display (to display toys and animation characters or other collectibles) in a physical world that display three-dimensional photo-realistic virtual reality images on a display device (**see col.1, lines 9-19; col.6, lines 22-23**) comprising: providing interactive digital video information related to physical items that are displayed in the gallery to a three-dimensional virtual reality display screen according to the theme selected for the display super-imposed interactive digital audio information related to physical items that are relayed into a pre-set area within said three-dimensional virtual reality in a synchronized overlay manner according to the theme / *scene* selected and displayed (**see abstract; fig.1; col.1, lines 54-62; col.2, lines 45-55**).

Re claims 14 and 15: Ritchey discloses user interactive apparatus for providing a virtual-reality sporting or inter-activity experience on a three-dimension photo realistic virtual reality display device, the apparatus comprising: audio reproduction means / *speaker* having an audio, output visual reproduction means / *display unit* having three-

dimensional photo-realistic virtual-reality visual output the physical object (mannequin or other physical objects) which is superimposed with three-dimensional photo-realistic virtual-reality images to create an environment (**see abstract; fig.15; col.6, lines 22-23; col.8, lines 25-60**); a control system synchronizing and interrelating the audio, video and physical movements relative to one another the control system including a data base and computer based system for providing a scenario / *scene* output for the audio output and the three-dimensional photo-realistic visual output; the control system further including software that is responsive to database and to the received signal outputs, and that regulates the scenario content so that the audio output and the visual output are synchronized and correspond to the movement of the participant (**see col.6, lines 1-2; col.8, lines 35-42; col.13, lines 62-67; col.27, lines 62-67**); the physical object / *subject* (mannequin or other physical object) further having control signal generators that are responsive to the movement (sensor) and the position(sensor) and that provide signal outputs that are received by the control system and that are responsive to, representative of, and synchronized with the body movement of the participant when the participant is so associated with the physical activity (**see col.10, lines 1-30**)

Re claim 16: Ritchey discloses system being made available to more than one user / *viewer* (**see col.34, lines 51-52**).

***Response to Arguments***

13. The reply filed on 09/05/2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant failed to submit an argument as to exactly how different the applicant's claimed invention is from the cited prior arts of records. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

Examiner, Art Unit 3714

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714